IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.276 OF 2006

M.Santhanam .. Petitioner.
Vs.
State of Maharashtra & Ors. .. Respondents.

Ms.Hina A.Mody for the petitioner.
Mr.A.S.Shitole A.P.P. for the State.
Mr.A.S.Rao for respondent nos.2 to 5.

CORAM : D.B.BHOSALE, J.

DATED : 17TH JULY, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent nos.2 to 5 and learned A.P.P. for the State.

2. This Court on 13.2.2006 passed the following order:

> "1. Heard Advocate for the Petitioner and the APP. Perused the report dated 23.11.2005 forwarded to the Trial Court by the Police Officer attached to Virar Police Station. It appears from the said report that the police investigation has revealed that the accused No.1 has misappropriated the entire amount of savings of the complainant and the accused No.1 earned from the year 1975 to 2004. The report indicates that during this period the accused No.1 was residing with the complainant abroad. The respondent no.1 then returned from abroad alone and has appropriated all the savings to herself. She is denying any marriage with the Petitioner. In the circumstances, the grievance of the present Petitioner is that the trial Court erred in

> only issuing notice on her application at Exh.45 in complaint No.OMA/153/2005. It was contended that issuance of notice to the accused would only permit the accused to remove all the monies in the bank account. That already the police were finding difficulty in tracing out the accused. In the circumstances, issue notice to the Respondent Nos.2 to 4, returnable in eight weeks. In the meanwhile, there will be an ad-interim order of freezing of the accounts shown in Schedule II to Exh.45 in complaint No.OMA/153/2005. The Petitioner will have liberty to serve the writ of the order of this Court by hamdast upon the concerned banks. Liberty to respondent Nos.2 to 4 to move this court for vacating ad-interim relief after giving notice to the Advocate for the petitioner prior to the returnable date."

3. It appears that the order was passed in view of the fact that the respondent-accused were not traceable and they were not appearing before the trial Court. The trial Court had only issued notice on the application at Exhibit-45 and had not passed any interim order of freezing of the accounts shown in Schedule II to Exhibit-45 in the complaint. Mr.Rao, learned counsel for respondent nos.2 to 5 states that respondent nos.2 to 5 will appear before the learned Magistrate and waive service. His statement is accepted. He further prays that the application at Exhibit-45 pending before the trial Court may be directed to be decided on merits in accordance with law. Considering the aforesaid order dated 13.2.2006 and the overall facts and circumstances of the case as also the statement made by Mr.Rao, learned counsel for

the respondent-accused, I am satisfied that the following order shall meet the ends of justice:

(a) The petitioner and the respondent-accused shall appear before the concerned Magistrate on 8th August, 2006 at 11.00 a.m. with a copy of this order.

(b) The learned Magistrate shall decide application at Exhibit-45 on merits in accordance with law.

(c) The ad-interim order passed by this Court vide order dated 13.2.2006 shall remain operative till application (Exhibit-45) is heard and decided by the learned Magistrate.

(d) The application at Exhibit-45 be decided as expeditiously as possible and preferably within a period of eight weeks from the date of receipt of this order.

(e) It is open for the Magistrate to decide the complaint itself, if it is possible and if he so desires, within the aforestated time.

. The writ petition is, accordingly, disposed of.

(D.B.Bhosale, J.)